


UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED 
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
2016 NOV -3 AM 9:56
CLERK-SANTA FE

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:15-cr-04082-MCA

DAVON LYMON,

Defendant.

**MOTION TO INTERVENE FOR LIMITED PURPOSE
OF ADDRESSING SEALING ORDER**

COME NOW Proposed Intervenors, the *Albuquerque Journal* and KRQE News 13, and pursuant to Fed. R. Crim. P. 24(b), request leave to intervene in this matter for the limited purpose of addressing the Court regarding its Order Sealing Audio Visual Exhibits (Doc. 118) and the subsequent United States' Motion to Unseal Audio-Visual Trial Exhibits Previously Sealed by October 27, 2016 Sealing Order (Doc.118) (Doc. 120).

As grounds therefore, proposed Intervenors state that they are media entities with an interest in access to some or all of the pieces of evidence ordered sealed by this Court in Doc. 118. Media entities generally have standing to present questions of access to court proceedings and materials on behalf of themselves and the general public. *United States v. McVeigh*, 918 F. Supp. 1452, 1456 (W.D. Okla. 1996). Permissive intervention under Fed.R.Civ.P. 24(b) is the appropriate procedural device for third parties, including media entities, to challenge a protective or confidentiality order. *Exum v. U.S. Olympic Comm.*, 209 F.R.D. 201, 204 (D. Colo. 2002).

Proposed Intervenors would like to be heard at the hearing currently scheduled for Friday, November 4, at 9:00 am (Doc. 121).

Before filing this motion, undersigned counsel for the *Albuquerque Journal* contacted counsel for the parties to determine their position on this motion. Counsel for Defendant Davon Lymon states that Defendant takes no position on the motion. Counsel for the United States does not oppose the filing of this motion.

WHEREFORE, the *Albuquerque Journal* and KRQE News 13, pursuant to Fed. R. Crim. P. 24(b), request leave to intervene in this matter for the limited purpose of addressing the Court regarding its Order Sealing Audio Visual Exhibits (Doc. 118), including leave to appear and be heard at the hearing currently scheduled for Friday, November 4 at 9:00 am (Doc. 121).

Respectfully submitted,

PEIFER, HANSON & MULLINS, P.A.

By: /s/ Gregory P. Williams
Charles R. Peifer
Gregory P. Williams
Post Office Box 25245
Albuquerque, NM 87125-5245
Tel: 505-247-4800
Email: cpeifer@peiferlaw.com
gwilliams@peiferlaw.com
Attorneys for Proposed Intervenor Albuquerque Journal

ESQUIVEL LAW FIRM, LLC

By: Electronically approved 11/02/16
Martin R. Esquivel
111 Lomas Blvd NW, #203
Albuquerque, NM 87102-2377
Tel: 505-933-6880
Email: mesquivel@esqlawnm.com
Attorneys for Proposed Intervenor KRQE News 13

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of November, 2016, the foregoing was filed electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing and I emailed the Motion to counsel as follows:

Kimberly A. Brawley
(kimberly.brawley@usdoj.gov)
Jacob Wishard (jacob.a.wishard@usdoj.gov)
Assistant United States Attorneys

Kari Converse (kari_converse@fd.org)
Marc H. Robert (Marc_Robert@fd.org)
Attorneys for Davon Lymon

/s/ Gregory P. Williams
Gregory P. Williams